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DATE: June 9, 2005

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In re the Application of:

Leland James Wieseuegel)

Serial Number: 09/773,197)

Group:3679

Docket Number: AUS920000945US1)

Examiner: Eric K. Nicholson

Filed on: 01/31/2001)

For: "Dynamic Catalog for On-Line
Offering and Bid System")

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FEE TRANSMITTAL
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	09/773,197
Filing Date	01/31/2001
First Named Inventor	Leland James Wieseheugel
Examiner Name	Eric K. Nicholson
Art Unit	3679
Attorney Docket No.	AUS920000945US1

METHOD OF PAYMENT (check all that apply)
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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fees Paid (\$)
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Fee for Filing Brief in Support of an Appeal per 37 CFR 41.20(b)(2) 500.00

SUBMITTED BY

Signature	<u>Robert Frantz</u>	Registration No. (Attorney/Agent) 42,553	Telephone 405-812-5613
Name (Print/Type)	Robert H. Frantz	Date June 9, 2005	

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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In re the Application of:

Leland James Wiesehuegel)

Serial Number: 09/773,197)

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Docket Number: AUS920000945US1)

Examiner: Eric K. Nicholson

Filed on: 01/31/2001)

For: "Dynamic Catalog for On-Line)

Offering and Bid System"

APPEAL BRIEF***Real Party in Interest***

The subject patent application is owned by International Business Machines Corporation of Armonk, NY.

Related Appeals and Interferences

The present patent application is related to US Patent Application number 09/714,726, docket number AUS9-2000-0736-US1, which is under appeal from final rejections.

Status of Claims

On April 28, 2004, appellant appealed from the final rejections of claims 1 - 15. Claims 1, 6 and 11 are independent claims, for which all amendments had been entered, as had been the amendments to claims 12 - 15, which are dependent on Claim 11. Claims 2 - 5 and 7 - 10 were in their originally-filed states.

On October 7, 2004, prosecution was re-opened and new rejections for Claims 1 - 15 were issued, to which applicant responded on January 7, 2005, by amending independent claims 1, 6, and 11.

On February 17, 2005, applicant's amendments to Claims 1, 6, and 11 were entered, and the rejections of October 7, 2004, were made final. On May 17, 2005, appellant appealed from the final rejections of claims 1 - 15. The claims are reproduced in the Appendix to this Appeal Brief.

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Summary of the Invention

The present invention provides a method and system for creating and updating electronic information sets regarding available products for bid or purchase through an online auction or bidding system (pg. 10, line 17 - 19), collectively referred to as an Interactive Offer System through:

- (1) providing at least two repositories of information sets and data items indexed to product part numbers or market identifiers (pg. 13 lines 6 - 9, pg. 14 lines 1 - 5; Fig. 4 #60, #70, #71, and #609);
- (2) dynamically linking (pg. 13 lines 16 - 18) the information sets and data items to the part numbers or market identifiers for available products by executing a synchronization script or program (pg. 13, lines 11 - 18), said execution being triggered at a predetermined time or responsive to a predetermined event (pg. 13 lines 4 - 6, pg. 14, lines 7 - 9);
- (3) upon request by a trader, synchronizing contents of a Sales Preparation System with the repositories such that all information sets and data items within all repositories represent full information sets of most recently created data items, including the contents of said Sales Preparation System (pg. 14, lines 10 - 16);
- (4) promoting the synchronized Sales Preparation System contents to an online auction system responsive to authorization of the trader (pg. 14, lines 14 - 19); and
- (5) presenting said promoted contents to one or more online bidders via an online auction system (pg. 14, lines 19 - 20).

Grounds for Rejection For Which Review is Sought

Claims 1 - 15 were finally rejected under 35 U.S.C. §102(e) as being anticipated by published U.S. patent application 2003/0009392 to Perkowski (hereinafter "Perkowski").

Rejection under 35 U.S.C. §102(e) over Perkowski**Claims 1, 6 and 11**

The independent claims 1, 6, and 11, each specify steps, elements or limitations not taught by Perkowski. Perkowski provides a system in which the “links” between information items in a catalog are updated manually. In other words, the definitions of the links between items are manually created and manually reconfigured over time by a human operator, such as by system administrators. Perkowski para. [0496] states dynamic changes in relationships are “carried out by a system administrator or manager”. Perkowski discloses “conventional data synchronization techniques” (para. 00437) which copy items (e.g. “import”) from one database to another such that all databases contain the same information after synchronization (para. 0840 where data items are “imported” during synchronization). A “conventional” definition of “data synchronization” can be found at database ITToolBox.com, for example:

Database Administration > Merging/Synchronizing

...

Sub-topic definition: Merging or synchronizing data includes collecting and combining records from individual databases and transferring them into one master database from which all the data can be retrieved.

(Source: <http://www.http://database.ittoolbox.com/nav/t.asp?t=445&p=445&h1=445>)

As such, the *links* employed by the Perkowski system are relatively static in nature until manually modified, changed or updated. Their data synchronization process, however, follows the links to update information between databases, but does not modify or update the link definitions themselves.

Our system, by contrast, is transactional in nature, wherein the links between databases are updated in real time or on-demand (e.g. our definition of “dynamically linking”) either in response to a specific event, such as a trader requesting sales preparation information, or upon a certain update period. In other words, our system is event-driven and automated such that all catalog information is updated on-demand without the need for human link creation or modification, as disclosed especially at pg. 12 lines 20 - 22, pg. 13 lines 4 -6 and lines 16 - 18 of

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our specification.

By "linking", we are using the verb ordinarily used in computer programming jargon to mean creation of or modification of a special type of pointer which points to a source of information. For example, Dictionary.com, a widely used online dictionary, defines the verb "linking" as:

linked

v. linked, linking, links

v. *tr.*

1. To connect with or as if with a link: *linked the rings to form a chain.*
See Synonyms at join.
2. Computer Science. To make a hypertext link in: *linked her webpage to her employer's homepage.*

According to this well-known usage of the term "linking", we are meaning to create or modify a "link" between a database element and one or more sources for information for that database element. As such, by the term "dynamically linking", we mean automatically creating and modifying such links based upon logical conditions and events processed by our invention. To accomplish this, our invention employs a script which not only periodically or responsively updates *contents* of multiple databases (e.g. "synchronizes" database contents), but also periodically or responsively updates the *links* between those databases and their data elements.

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In response to our amendment and explanation regarding this functional difference not taught by Perkowski, the rationale for the final rejections contains error for which review and reversal is requested by appellant. With particular respect to how Perkowski discloses establishing and managing the link definitions, the interpretation of the citation "As it may be desired" and "can be" in Perkowski's paragraph [0496] (see OA page 15) as implying that this is just one way, but other ways are taught, is improper interpretation of Perkowski's disclosure, and imports our disclosure into theirs. Perkowski states (emphasis added):

[0496] Notably, each information item contained within the information field shown along the same horizontal line of FIG. 4A1 is symbolically related or linked. Different products of the same registrant or related registrant may also be linked together so that a user looking for information about a particular product is automatically provided with URLs which are assigned to related products of the registrant which may satisfy the goals or objectives of a particular advertising and/or marketing campaign or product promotion program of the registrant company. As it may be desired to relate particular products at particular points in time, the relationships therebetween can be dynamically changed within the IPI Registrant Database by a straightforward database updating operation carried out by a system administrator (or manager) who, in theory, can be located virtually anywhere throughout the world. Expectedly, such database updating operations would be carried out using appropriate system access and security procedures well known in the art.

It was stated in the rationale for the final rejections that this language is “operative language”, and that applicant “ignored” this “operative language” in the previous reply to the examiner. However, appellant notes with particular emphasis that the verb “desired” is an operation only possibly performed by humans, not machines. Also from Dictionary.com, the commonly employed definition of “desire” is:

desire

tr. v. desired, desiring, desires

1. To wish or long for; want.
2. To express a wish for; request

Perkowski provides no alternate, unconventional definition of “desired” which would enable one of ordinary skill in the art to program a script to wish for changes to links between data elements in databases. Thus, appellant proposes that interpreting Perkowski’s link definition or link establishment step as being limited to a *manually* performed action is consistent with the verb “desired” used by Perkowski, and is consistent with another phrase in the very same sentence which *explicitly* states this step is performed by a human (e.g. a system administrator or manager).

Other paragraphs in Perkowski were cited in the rationale for the final rejections wherein it is proposed that Perkowski teaches automated link definition and updating, but these paragraphs only teach of updating information which is already linked, e.g. the links were manually and statically established while Perkowski’s applets periodically get information from the sources to which the links point in order to synchronize data.

It is improper and erroneous to use Perkowski’s “can be” and “As it may be desired” phrases to *imply* a 102(e) anticipation of a step, element or limitation we have claimed if Perkowski is silent as to such variations or alternatives, and if Perkowski is silent as to special or non-conventional definitions. Therefore, it has not been shown where Perkowski teaches automatically changing links according to our definition of “dynamically linking” (e.g. to point to sources of more recent or current information), and appellant requests reversal of the rejections of Claims 1, 6 and 11.

Serial No. 09/773,197Leland James WiesehuegelPage 7 of 13**Claims 2 - 5, 7 - 10, and 12 - 15**

Claims 2 - 5, 7 - 10, and 12 - 15 are dependent upon Claims 1, 6, and 11, respectively, and thus incorporate the steps, elements or limitations not taught by Perkowski as discussed in the foregoing paragraphs. For these reasons, appellant requests reversal of the rejections of claims 2 - 5, 7 - 10, and 12 - 15.

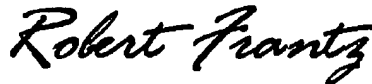
Summary

For the foregoing reasons, it is submitted that the rejections of Claims 1 - 15 were erroneous for:

- (A) failing to examine our claims in light of our specification and the definitions for our terminology provided therein;
- (B) failing to employ industry-accepted definitions of terms when interpreting claim terms for which a disclosure is silent; and
- (C) failing to consider the entirety of the disclosure of the cited art in order to determine the meaning of the terms used in the cited art.

Appellant requests reversal of the rejections of claims 1 - 15.

Respectfully Submitted,



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Appendix A**Clean Form of Amended Claims****Claim 1 (previously amended):**

A method for providing electronic catalogs of information sets regarding available products for bid or purchase through an online auction or bidding system collectively referred to as an Interactive Offer System, said method comprising the steps of:

providing at least two repositories of information sets and data items indexed to product part numbers or market identifiers;

dynamically linking said information sets and data items to said part numbers or market identifiers for available products by executing a synchronization script or program, said execution being triggered at a predetermined time or responsive to a predetermined event;

upon request by a trader, synchronizing contents of a Sales Preparation System with said two or more repositories such that all information sets and data items within all repositories represent full information sets of most recently created data items, including the contents of said Sales Preparation System;

promoting said synchronized Sales Preparation System contents to an online auction system responsive to authorization of said trader; and

presenting said promoted contents to one or more online bidders via said online auction system.

Claim 2 (original):

The method as set forth in Claim 1 wherein said step of synchronizing is performed on a periodic basis.

Claim 3 (original):

The method as set forth in Claim 1 wherein said step of synchronizing is performed responsive to a request for said information sets in any of the repositories.

Serial No. 09/773,197Leland James WieseuegelPage 9 of 13**Claim 4 (original):**

The method as set forth in Claim 1 further comprising the step of providing a list to a user, said list having part numbers and dynamic links to said information sets and data items associated with said listed part numbers.

Claim 5 (original):

The method as set forth in Claim 1 further comprising the step of saving a copy of an information set linked to a part number such that said saved copy is statically linked to said most recently created data items.

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Claim 6 (previously amended):

A computer readable medium containing program code for providing electronic catalogs of information sets regarding available products for bid or purchase in through an online auction or bidding system collectively referred to as an Interactive Offer System, said program code when executed by a computer causing the computer to perform the steps of:

providing at least two repositories of information sets and data items indexed to product part numbers or market identifiers;

dynamically linking said information sets and data items to said part numbers or market identifiers for available products by executing a synchronization script or program, said execution being triggered at a predetermined time or responsive to a predetermined event;

upon request by a trader, synchronizing contents of a Sales Preparation System with said two or more repositories such that all information sets and data items within all repositories represent full information sets of most recently created data items, including the contents of said Sales Preparation System;

promoting said synchronized Sales Preparation System contents to an online auction system responsive to authorization of said trader; and

presenting said promoted contents to one or more online bidders via said online auction system.

Claim 7 (original):

The computer readable medium as set forth in Claim 6 wherein said program code for synchronizing is adapted to perform synchronization on a periodic basis.

Claim 8 (original):

The computer readable medium as set forth in Claim 6 wherein said program code for synchronizing is adapted to perform synchronization responsive to a request for said information sets in any of the repositories.

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The computer readable medium as set forth in Claim 6 further comprising program code for performing the step of providing a list to a user, said list having part numbers and dynamic links to said information sets and data items associated with said listed part numbers.

Claim 10 (original):

The computer readable medium as set forth in Claim 6 wherein said program code for further comprises program code for saving a copy of an information set linked to a part number such that said saved copy is statically linked to said most recently created data items.

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Claim 11 (previously amended):

A system for providing a dynamic online listing of information regarding items available for purchase or bid through an online auction system, comprising:

- at least two computer-readable repositories of descriptive data items;
- a plurality of dynamic links between descriptive data items and product part numbers or market identifiers, said links being established by executing a synchronization script or program, said execution being triggered at a predetermined time or responsive to a predetermined event;
- a repository synchronizer which, responsive to a trader request, dynamically updates links to descriptive data items adapted to replace links to older data items with links to newer data items, and adapted to add links to data items which were not previously available;
- an offer promoter for promoting said synchronized Sales Preparation System contents to an online auction system responsive to authorization of said trader; and
- a user interface to an Interactive Offer System user interface adapted to present said promoted contents to one or more online bidders via said online auction system.

Claim 12 (previously amended):

The system as set forth in Claim 11 wherein said repository synchronizer is further adapted to replace and add links on a timed basis.

Claim 13 (previously amended):

The system as set forth in Claim 11 wherein said repository synchronizer is further adapted to replace and add links responsive to a request for information from said repositories.

Claim 14 (previously amended):

The system as set forth in Claim 11 further comprising a offer description creator adapted to capture or copy dynamically linked data items to a part number into a second set of descriptive data items which are statically related to said part number.

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Claim 15 (previously amended):

The system as set forth in Claim 11 further comprising an offer list creator adapted to create a list of part numbers associated with dynamic links to said data items.